

REMARKS

The Examiner sets forth a species restriction in the above-referenced Office Action.

In response thereto, Applicants hereby elect Species VII, claims 24-27, with traverse.

The ground of traversal is based on the Examiner's failure to set forth a proper species restriction in accordance with USPTO practice and the Code of Federal Regulations. According to MPEP 806.04,

Where an application includes claims directed to different embodiments or species that could fall within the scope of a generic claim, restriction between the species may be proper if the species are independent or distinct.

(emphasis added). Further, according to 37 C.F.R. § 1.146,

In the first action on an application containing a generic claim to a generic invention (genus) and claims to more than one patentably distinct species embraced thereby, the examiner may require the applicant in the reply to that action to elect a species of his or her invention to which his or her claim will be restricted if no claim to the genus is found to be allowable.

(emphasis added). Thus, USPTO practice and the Federal Regulations require a generic claim for a species restriction to be properly applied. In this case, the present application contains no generic claim, as noted by the Examiner on page 3 of the Office Action. Therefore, the species restriction requirement is improper and should be withdrawn.

Further, all of the claims relate in some manner to taking pulse volume measurement; and therefore, there is not a substantial burden of an additional search in order to examine all the claims of the invention in this application. Therefore, Applicants respectfully request withdrawal of the species restriction.

This application should now be in order for consideration on the merits of the claims as Applicant has fully and completely responded to the Office Action by making the required election.

In the event that there are any questions relating to this amendment or to the application in general, it would be appreciated if the examiner would telephone the undersigned attorney concerning such questions so that the prosecution of this application may be expedited.

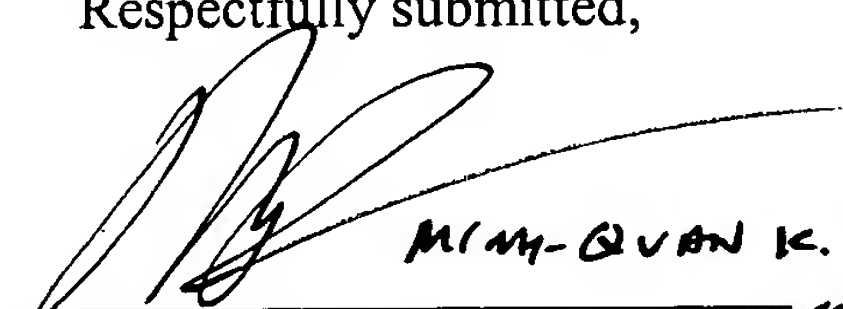
Please charge any shortage or credit any overpayment of fees to BLANK ROME LLP, Deposit Account No. 23-2185 (117622-00102). In the event that a petition for an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this response, applicant hereby petitions under 37 C.F.R. § 1.136(a) for an extension of time for as many months as are required to render this submission timely.

Any fees due are authorized above.

Respectfully submitted,

Date: July 13, 2006

By:


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